

THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 5580 of 2007

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Order:

Assailing the orders dated 13.02.2007, passed by the 2nd respondent, namely the Authority under the Shops and Establishments Act, 1988, dismissing the applications in I.A. Nos. 1, 2 and 3 of 2006 in Shop Appeal No. 5 of 2000 and I.A. Nos. 4 and 6 of 2006 in M.P. NO. 4 of 2003, filed by the petitioner seeking to add her husband, namely Gowtham Chand Jain as 2nd opposite party, to permit her husband to give evidence on her behalf and to exempt her personal appearance before the forum, as illegal and arbitrary, and consequently to set aside the same, she filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Labour respondent Nos. 1 and 2.

The learned counsel for the petitioner submitted that though the firm, namely "M/s. Neelam and Company" stands in the name of the petitioner, in fact, its administration and business is being carried on by her husband, but the unofficial respondents knowing well that she is not in control of the firm, and with a view to cause inconvenience, filed petitions before the authority showing her opposite party. He submitted that since the husband of the petitioner is carrying on the administration and business of the firm, she filed the present applications seeking to add her husband as 2nd opposite party and permit her husband to give evidence on her behalf, and since the petitioner belongs to Jain community and as their religion practices parda system, the petitioner be exempted from personal appearance, but the 2nd respondent without considering the same, has erroneously

rejected the them. He, therefore, prayed that the impugned orders be set aside, and the petitions as filed by the petitioner, be allowed.

I am unable to agree with any of the submission of the petitioner. It is the admitted case of the petitioner that the firm, namely “M/s. Neelam and Company” stands in her name. Since the firm stands in the name of the petitioner, she cannot be allowed to contend that she is not in control of the administration and business of the firm. If in fact, the administration and business of the firm was being carried on by her husband, then nothing prevented her from disclosing the details as to in what position her husband, carried on the administration and business of the firm. The petitioner except stating that since the administration and business was being carried on by her husband, he be added as 2nd opposite party, has neither disclosed the position in which her husband was managing the firm, nor placed any material to show that the day to day administration and business of the firm. Further, the General Power of Attorney, executed by her in her favour of her husband also, except delegating certain powers to her husband, does not give any power to her husband to add himself as 2nd opposite party. In the absence of any material filed by the petitioner to show that not she, but her husband was carrying on the administration and business of the firm, no exception can be taken to the order passed by the 2nd respondent refusing to add the husband of the petitioner as 2nd opposite party, and consequently refusing to permit her husband to give evidence on her behalf, and more so when it would be improper to permit a person not well versed with the day to day affairs and administration and business of the firm to give evidence. No doubt, the petitioner belongs to Jain community, but that by itself cannot be a ground for her to seek exemption from

appearance before the authority, and since the petitioner being a women, was said to be carrying on the day to day administration and business of the firm, no exception can be taken to the impugned order, passed by the 2nd respondent refusing to exempt the petitioner from appearance.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Dated: 17th April, 2007.
KSR